

SENATE BILL NO. 408

INTRODUCED BY D. WANZENRIED

1
2
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS GOVERNING OPERATION OF TAXICABS,
5 LIMOUSINES, AND CHARTER SERVICES; ESTABLISHING A CLASS B PASSENGER MOTOR CARRIER
6 CERTIFICATE; ESTABLISHING PENALTIES FOR VIOLATIONS OF MOTOR CARRIER STATUTES BY CLASS
7 B PASSENGER MOTOR CARRIERS; ESTABLISHING CERTAIN REQUIREMENTS AND RESTRICTIONS FOR
8 CLASS B PASSENGER MOTOR CARRIERS; ESTABLISHING SIGN REQUIREMENTS FOR PRIVATE
9 LIMOUSINES; PROHIBITING RENTAL CAR COMPANIES FROM PROVIDING CHAUFFEURS WITH MOTOR
10 VEHICLES; ALLOWING THE PUBLIC SERVICE COMMISSION TO COLLECT CERTAIN FEES; REVISING THE
11 CLASS B MOTOR CARRIER APPLICATION AND PROTEST PROCESSES; CLARIFYING PROVISIONS
12 REGULATING THE ADVERTISING OF MOTOR VEHICLES FOR HIRE; EXEMPTING CLASS B PASSENGER
13 MOTOR CARRIERS FROM CERTAIN REQUIRED REPORTS; ELIMINATING THE FEE TO PROTEST A CLASS
14 B PASSENGER MOTOR CARRIER CERTIFICATE APPLICATION; REQUIRING THE PUBLIC SERVICE
15 COMMISSION TO ISSUE UPDATED CERTIFICATES TO EXISTING CLASS B MOTOR CARRIERS
16 AUTHORIZED TO CARRY PASSENGERS; AMENDING SECTIONS 69-1-114, 69-12-101, 69-12-106, 69-12-108,
17 69-12-210, 69-12-301, 69-12-312, 69-12-321, 69-12-407, AND 69-12-423, MCA; AND PROVIDING AN
18 IMMEDIATE EFFECTIVE DATE."

19
20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

21
22 NEW SECTION. **Section 1. Violations -- penalties for Class B passenger motor carriers.** (1) A
23 Class B passenger motor carrier subject to the provisions of this chapter, including an officer, director, employee,
24 or agent of the motor carrier, who fails to comply with the provisions of this chapter or with a lawful order,
25 decision, rule, direction, demand, or requirement of the commission is subject, upon conviction in a justice's court,
26 to a fine of:
27 (a) \$500 for a first offense;
28 (b) \$1,500 for a second offense; and
29 (c) \$3,000 for any subsequent offense.
30 (2) Each day in which a firm or a Class B passenger motor carrier operates or advertises a motor vehicle

1 for hire in violation of the provisions of this chapter must be considered a separate offense.

2 (3) Multiple violations of the same provision on the same day must be considered separate offenses.

3

4 **NEW SECTION. Section 2. Requirements and restrictions for Class B passenger motor carriers.**

5 (1) (a) A Class B passenger motor carrier shall perform a background check on a person applying for employment
6 as a chauffeur before the motor carrier may hire or offer employment as a chauffeur to the person.

7 (b) A Class B passenger motor carrier may not hire as a chauffeur a person who has been convicted
8 in the past 5 years:

9 (i) of a felony crime;

10 (ii) of driving under the influence of alcohol or drugs pursuant to Title 61, chapter 8, part 4; or

11 (iii) under any state or federal law of an offense relating to any controlled substance or dangerous drug.

12 (c) A Class B passenger motor carrier may not hire as a chauffeur a person who has an outstanding
13 warrant for the person's arrest.

14 (2) A Class B passenger motor carrier shall perform random drug tests on all chauffeurs at least once
15 a year and forward the results of the tests to the commission for the commission's records.

16 (3) A Class B passenger motor carrier shall operate in the carrier's commission-assigned radius as
17 restricted by road miles and county.

18

19 **NEW SECTION. Section 3. Sign requirements for private limousines.** (1) Privately owned limousines
20 that are not otherwise regulated by the commission under this chapter:

21 (a) must display "NOT FOR HIRE" in a minimum of 3-inch type on both side windows, on the rear
22 window, and on the rear bumper;

23 (b) may not display contact or owner information on the vehicle; and

24 (c) may not transport passengers with alcoholic beverages.

25 (2) Violations of this section are subject to the penalties provided under [section 1].

26

27 **NEW SECTION. Section 4. Rental companies prohibited from renting vehicles operated by**
28 **chauffeurs.** A firm that rents motor vehicles may not provide a motor vehicle with a chauffeur to carry passengers
29 for any purpose.

30

1 **Section 5.** Section 69-1-114, MCA, is amended to read:

2 **"69-1-114. Fees.** (1) Each fee charged by the commission must be reasonable.

3 (2) Except for a fee assessed pursuant to 69-3-204(2), 69-8-421(10), 69-12-312(3), or 69-12-423(2), a
4 fee set by the commission may not exceed \$500.

5 (3) All fees collected by the department under 69-8-421(10) must be deposited in an account in the
6 special revenue fund. Funds in this account must be used as provided in 69-8-421(10)."

7

8 **Section 6.** Section 69-12-101, MCA, is amended to read:

9 **"69-12-101. Definitions.** Unless the context requires otherwise, in this chapter, the following definitions
10 apply:

11 (1) "Airport shuttle service" means for-hire transportation to or from an airport when the motor vehicle
12 used to provide the transportation is a motor vehicle that seats up to eight passengers, including the chauffeur.

13 ~~(1)~~(2) "Between fixed termini" or "over a regular route" means the termini or route between or over which
14 a motor carrier usually or ordinarily operates motor vehicles, even though there may be periodical or irregular
15 departures from the termini or route.

16 ~~(2)~~(3) "Certificate" means the certificate of public convenience and necessity issued under this chapter.

17 (4) "Chauffeur" means an operator of a for-hire motor vehicle that is subject to regulation under this
18 chapter and that is carrying passengers for a wage or gratuity.

19 ~~(3)~~(5) "Compensation" means the charge imposed on motor carriers for the use of the highways in this
20 state by motor carriers under 69-12-421.

21 ~~(4)~~(6) "Corporation" means a corporation, company, association, or joint-stock association.

22 (7) "Firm" means an individual, company, partnership, association, or corporation.

23 ~~(5)~~(8) "For hire" means for remuneration of any kind, paid or promised, either directly or indirectly, or
24 received or obtained through leasing, brokering, or buy-and-sell arrangements from which a remuneration is
25 obtained or derived for transportation service.

26 ~~(6)~~(9) (a) "Garbage" means ashes, trash, waste, refuse, rubbish, organic or inorganic matter that is
27 transported to a licensed transfer station, licensed landfill, licensed municipal solid waste incinerator, or licensed
28 disposal well.

29 (b) The term does not include wastewater and waste tires.

30 ~~(7)~~(10) (a) "Household goods" means any of the following:

1 ~~(a)(i)~~ personal effects and property used or to be used in a dwelling when they are a part of the
2 equipment or supply of the dwelling; ~~The term does not include property moving from a factory or store unless~~
3 ~~the property is purchased by a householder for use in a dwelling and is transported at the request of the~~
4 ~~householder.~~

5 ~~(b)(ii)~~ furniture, fixtures, equipment, and the property of stores, offices, museums, institutions, hospitals,
6 or other establishments when those items are a part of the stock, equipment, or supply of the stores, offices,
7 museums, institutions, hospitals, or other establishments; ~~The term does not include the stock-in-trade of an~~
8 ~~establishment, whether consignor or consignee, other than used furniture and used fixtures, except when~~
9 ~~transported as incidental to moving of the establishment or a portion of the establishment from one location to~~
10 ~~another.~~

11 ~~(c)(iii)~~ articles, including objects of art, displays, and exhibitions that because of their unusual nature or
12 value, require the specialized handling and equipment usually employed in moving household goods and other
13 similar articles.

14 **(b)** The term does not include:

15 **(i)** property moving from a factory or store unless the property is purchased by a householder for use
16 in a dwelling and is transported at the request of the householder; or

17 **(ii)** the stock-in-trade of an establishment, whether consignor or consignee, other than used furniture and
18 used fixtures, except when transported as incidental to moving of the establishment or a portion of the
19 establishment from one location to another.

20 **(11)** "Limousine" means a motor vehicle specifically designed to carry passengers with a wheelbase that
21 has been lengthened beyond the manufacturer's original specifications, whether at the manufacturer's factory
22 or otherwise, and that carries no more than 32 passengers. A limousine must have a gross vehicle weight, as
23 defined in 61-1-101, of less than 26,000 pounds.

24 **(12)** "Limousine service" means prearranged, for-hire transportation provided by a hired chauffeur for
25 exclusive use of a person or group over a nonscheduled route. Limousine service is provided by a motor vehicle
26 other than a taxicab.

27 ~~(8)(13)~~ "Motor carrier" means a person or corporation; or its lessees, trustees, or receivers appointed
28 by a court; that is operating motor vehicles upon a public highway in this state for the transportation of
29 passengers, household goods, or garbage for hire on a commercial basis, either as a common carrier or under
30 private contract, agreement, charter, or undertaking.

1 ~~(9)~~(14) "Motor vehicle" includes vehicles or machines, motor trucks, tractors, or other self-propelled
2 vehicles used for the transportation of property or persons over the public highways of the state.

3 ~~(10)~~(15) "Person" means an individual, firm, or partnership.

4 ~~(14)~~(16) "Public highway" means a public street, road, highway, or way in this state.

5 ~~(12)~~(17) "Railroad" means the movement of cars on rails, regardless of the motive power used.

6 ~~(13)~~(18) "Recyclable" means any material diverted from the solid waste stream that can be reused in the
7 production of heat or energy or as raw material for new products and for which markets exist.

8 (19) (a) "Taxicab" means a light vehicle, as defined in 61-1-101, that carries no more than five
9 passengers, including the chauffeur.

10 (b) A taxicab may not have interior or exterior enhancements that:

11 (i) extend the wheelbase of the motor vehicle from the original manufacturer's design; or

12 (ii) rearrange the seats in an arrangement that is different from the original manufacturer's design.

13 (20) "Taxicab service" means for-hire transportation provided by a taxicab on a call-and-demand basis.

14 The passenger of the taxicab designates the destination, stops, and route. The fee for taxicab service is based
15 on the mileage driven.

16 (21) "Trolley bus" means a motor vehicle that:

17 (a) operates on public highways; and

18 (b) replicates in style a tram, streetcar, or other vehicle operating on a rail system that is of a lighter
19 weight and construction than a railway car but that is designed to resemble a railway car.

20 (22) "Trolley bus service" means prearranged, for-hire transportation for a group of 16 or more
21 passengers in a vintage or replica trolley bus."

22

23 **Section 7.** Section 69-12-106, MCA, is amended to read:

24 **"69-12-106. Acts indicative of status as motor carrier.** ~~Any~~ A person or corporation maintaining a
25 public motor vehicle stand or ~~advertising~~, by a sign, symbol, ~~or~~ device, ~~or~~ vehicle, ~~or~~ clothing, ~~or~~ ~~by~~ advertisement
26 in a public venue, including but not limited to television, radio, newspapers, or a telephone directory, ~~holding forth~~
27 the provision of transportation for compensation, ~~or~~ soliciting the transportation of persons or property for
28 compensation among the public, ~~or~~ soliciting for trips for compensation or providing transportation service to the
29 public under the guise of leasing or buy-and-sell arrangements ~~shall~~ must be ~~deemed~~ considered, prima facie,
30 a "motor carrier" subject to this chapter. The burden of proof ~~shall be~~ is on ~~such~~ the person or corporation to

1 disprove ~~such~~ the status."

2

3 **Section 8.** Section 69-12-108, MCA, is amended to read:

4 **"69-12-108. Violations -- exceptions.** Any Except as provided in [section 1], a motor carrier subject to
 5 the provisions of this chapter, ~~as amended,~~ or whenever ~~any such~~ the motor carrier is a corporation, ~~any a~~
 6 director or officer ~~thereof~~ of the corporation; ~~any a~~ receiver, trustee, lessee, agent, or person acting for or
 7 employed by ~~such~~ the corporation; any person, corporation, or association ~~or its~~ officer, agent, or employee
 8 ~~thereof;~~ or any broker of property or officer, agent, or employee ~~thereof~~ of the broker who violates or fails to
 9 comply with or who procures, aids, or abets in the violation of any provision of this chapter, ~~as amended,~~ or who
 10 fails to obey, observe, or comply with any lawful order, decision, rule, direction, demand, or requirement of the
 11 commission or any part of ~~the~~ related provisions ~~thereof~~ established by the commission is:

12 (1) subject to a civil penalty, to be collected and deposited ~~to~~ in the general fund by the commission after
 13 notice and hearing, in an amount not less than \$25 or more than \$500 for the first offense and not less than \$25
 14 or more than \$1,000 for each subsequent offense; or

15 (2) subject, upon conviction in a justice's court, to a fine of not less than \$25 or more than \$500 for the
 16 first offense and not less than \$25 or more than \$1,000 for each subsequent offense."

17

18 **Section 9.** Section 69-12-210, MCA, is amended to read:

19 **"69-12-210. Complaints.** (1) The commission has jurisdiction to conduct investigations and hear
 20 complaints to determine whether a motor carrier has violated any of the commission's rules or orders or any
 21 provision of this chapter.

22 (2) Following an opportunity for hearing and upon a finding that a motor carrier has violated any of the
 23 commission's rules or orders or any provision of this chapter, the commission may suspend or revoke the motor
 24 carrier's certificate of operating authority or impose any penalty provided for under [section 1] or 69-12-108."

25

26 **Section 10.** Section 69-12-301, MCA, is amended to read:

27 **"69-12-301. Classification of motor carriers.** (1) Motor carriers are divided into four classes to be
 28 known as:

29 (a) Class A motor carriers;

30 (b) Class B motor carriers;

1 (c) Class C motor carriers; and

2 (d) Class D motor carriers.

3 (2) Class A motor carriers include all motor carriers operating between fixed termini or over a regular
4 route and under regular rates or charges, based upon either station-to-station rates or upon a mileage rate or
5 scale.

6 (3) (a) Class B motor carriers include all motor carriers operating under regular rates or charges based
7 upon either station-to-station rates or upon a mileage rate or scale and not between fixed termini or over a regular
8 route.

9 (b) A Class B motor carrier that provides for-hire transportation for passengers shall apply for a Class
10 B passenger motor carrier certificate. A Class B passenger motor carrier is subject to the provisions of 69-12-312.

11 (4) Class C motor carriers include all motor carriers ~~where~~ for which the remuneration is fixed in and the
12 transportation service furnished under a contract, charter, agreement, or undertaking.

13 (5) Class D motor carriers include all motor carriers operating motor vehicles transporting garbage."
14

15 **Section 11.** Section 69-12-312, MCA, is amended to read:

16 **"69-12-312. Class B motor carrier certificate.** (1) ~~(a) No~~ (a) A Class B motor carrier ~~shall~~ may not operate
17 for the transportation of persons, ~~and/or~~ property, or both for hire on ~~any~~ a public highway in this state without
18 first having obtained from the commission, under the provisions of this chapter, a certificate or certificates that
19 public convenience and necessity require ~~such~~ the operations.

20 (b) If a firm seeks to provide Class B passenger motor carrier service, the firm shall apply for a separate
21 Class B passenger motor carrier certificate for each of the following types of passenger service that the firm seeks
22 to provide:

23 (i) airport shuttle service;

24 (ii) limousine service;

25 (iii) taxicab service; or

26 (iv) trolley bus service.

27 (2) A motor carrier making application for ~~such~~ a Class B permit certificate shall do so in writing,
28 separately for each locality and type of service for which consideration is desired, ~~which.~~ The petition shall must
29 be verified by the commission and ~~shall~~ must specify the following matters:

30 (a) the name and address of the applicant and the names and addresses of its officers, if any;

1 (b) the kind of transportation, whether passenger, freight, or both, together with a full and complete
 2 description of the character of the vehicle or vehicles to be used, including the seating capacity of any vehicle
 3 to be used for passenger traffic and the tonnage capacity of any vehicle to be used in freight traffic;

4 (c) the locality and character of operations to be conducted;

5 (d) a schedule of the tariff of rates desired to be charged for the transportation of freight, ~~and/or~~
 6 passengers, or both;

7 (e) a complete and detailed description of the property proposed to be devoted to the public service;

8 (f) a detailed statement showing the assets and liabilities of ~~such~~ the applicant; and

9 (g) ~~such~~ other or additional information as that the commission may by order require.

10 (3) ~~(a) Such~~ Except as provided in subsection (3)(b), the application shall must be accompanied by a
 11 filing fee to be set by rule of the commission.

12 (b) An application for a Class B passenger motor carrier certificate must be accompanied by a filing fee
 13 of \$1,000, which is nonrefundable."

14

15 **Section 12.** Section 69-12-321, MCA, is amended to read:

16 **"69-12-321. Hearing on application for motor carrier certificate.** (1) Upon the filing of an application
 17 by a Class A, Class B, Class C, or Class D motor carrier, except a Class C motor carrier authorized to operate
 18 under the terms of a contract as provided in 69-12-324, or upon the filing of a request for a transfer of authority,
 19 the commission shall give notice of the filing of the application to any interested party. The commission shall fix
 20 a time and place for a hearing on the application whenever a protest or a request for a hearing is received. The
 21 hearing must be set for a date not later than 60 days after receipt of a protest or a hearing request by the
 22 commission. Whenever no protests or hearing requests are received, the commission may act on the application
 23 without a hearing as prescribed by commission rules.

24 (2) A motor carrier referred to in 69-12-322, the department of transportation, the governing board or
 25 boards of any county, town, or city into or through which the route or service as proposed may extend, and any
 26 person or corporation concerned are interested parties to the proceedings and may offer testimony for or against
 27 the granting of the certificate.

28 (3) The contracting parties referred to in 69-12-313(4) must appear and offer testimony in support of the
 29 applicant.

30 (4) However, an application by a Class A, Class B, Class C, or Class D motor carrier for a certificate may

1 be disallowed without a public hearing when it appears from the records of the commission that the route or
 2 territory sought to be served by the applicant has previously been made the basis of a public investigation and
 3 finding by the commission that public convenience and necessity do not require the proposed motor carrier
 4 service unless it is made to affirmatively appear in the application by a recital of the facts that conditions obtaining
 5 over the route or in the territory and affecting transportation facilities have materially changed since the previous
 6 public investigation and finding and that public convenience and necessity now require the motor carrier
 7 operation.

8 (5) The commission shall consider whether a new application for a Class B passenger motor carrier
 9 certificate would financially stress or jeopardize an existing Class B passenger motor carrier and shall prioritize
 10 the existing carrier's needs when deliberating on a new application.

11 (6) A Class B passenger motor carrier may protest any application for a Class B passenger motor carrier
 12 certificate.

13 (7) A Class B passenger motor carrier filing a protest with the commission may not be required to be
 14 represented by an attorney or to have an attorney present at a hearing."

15
 16 **Section 13.** Section 69-12-407, MCA, is amended to read:

17 **"69-12-407. Records and reports -- exemption.** (1) All records, books, accounts, and files of every
 18 Class A, Class B, Class C, and Class D motor carrier in this state, ~~so far as they that~~ relate to the business of
 19 transportation conducted by the motor carrier; must at all times be subject to examination by the commission or
 20 by any authorized agent or employee of the commission. The commission shall prescribe a uniform system of
 21 accounts and uniform reports covering the operations of Class A, Class B, Class C, and Class D motor carriers,
 22 and every motor carrier authorized to operate in accordance with the provisions of this chapter shall keep its
 23 records, books, and accounts according to the uniform system, ~~insofar as far as possible.~~

24 (2) ~~(a) Before~~ Except as provided in subsection (2)(b), before April 1 of each year, unless this deadline
 25 has been extended for good cause by the commission, ~~every~~ a motor carrier authorized to engage in business
 26 shall file with the commission a report, under oath, on a form prescribed and furnished by the commission. Those
 27 carriers filing an annual report with the interstate commerce commission shall, in addition to filing the report
 28 prescribed by the public service commission, submit to the public service commission a copy of the annual report
 29 filed with the interstate commerce commission. In addition to annual reports ~~every~~ a motor carrier shall prepare
 30 and file with the commission, at the time or times and in the form to be prescribed by the commission, annual

1 reports, special reports, and statements giving to the commission information it requires in order to perform its
2 duties under this chapter.

3 (b) A Class B passenger motor carrier is exempt from the requirement to file an annual report.

4 (3) In addition to other reporting requirements, the commission shall require the holder of a Class D
5 motor carrier certificate to provide sufficient information to show that the carrier is entitled to possess the Class
6 D motor carrier certificate under the requirements of 69-12-314."

7

8 **Section 14.** Section 69-12-423, MCA, is amended to read:

9 **"69-12-423. Fees to be charged by commission -- no fee for protest of application for Class B**

10 **passenger motor carrier certificate.** (1) The public service commission may, except as otherwise provided by
11 law, require and receive fees before filing annual reports, tariffs, schedules, applications, and supplements not
12 provided by law to be furnished free of charge.

13 (2) The commission shall require and receive an additional sum to be set by the commission to pay the
14 cost of publishing ~~such a~~ notice ~~as~~ that may be required by this chapter.

15 (3) This section does not require or authorize the public service commission to collect fees for the filing
16 of annual reports, tariffs, schedules, and supplements of these ~~which~~ documents that relate solely to interstate
17 commerce.

18 (4) The commission may not require a fee for a protest to an application for a Class B passenger motor
19 carrier certificate received pursuant to 69-12-321."

20

21 **NEW SECTION. Section 15. Codification instruction.** (1) [Section 1] is intended to be codified as an
22 integral part of Title 69, chapter 12, part 1, and the provisions of Title 69, chapter 12, part 1, apply to [section 1].

23 (2) [Sections 2 through 4] are intended to be codified as an integral part of Title 69, chapter 12, part 4,
24 and the provisions of Title 69, chapter 12, part 4, apply to [sections 2 through 4].

25

26 **NEW SECTION. Section 16. Effective date.** [This act] is effective on passage and approval.

27

28 **NEW SECTION. Section 17. Grandfather clause.** The commission shall issue, without charge or
29 application, an updated certificate or certificates to any Class B motor carrier that was authorized to carry
30 passengers on or before [the effective date of this act].

31

- END -